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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,868	08/17/2006	Christopher Luckhurst	06275-468US1 100949-1P US	4699
26164 7590 10/09/2007 FISH & RICHARDSON P.C. P.O BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER CHANDRAKUMAR, NIZAL S	
			ART UNIT 1625	PAPER NUMBER
			MAIL DATE 10/09/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,868	<b>Applicant(s)</b> LUCKHURST ET AL.	
	<b>Examiner</b> Nizal S. Chandrakumar	<b>Art Unit</b> 1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

Applicant's response filed 09/19/2007 is acknowledged.

Applicants cancelled claims 1-8 and 11-21.

Applicants added new claims 22-26.

Claims 22-26 are currently pending.

**Response to Applicants Remarks:**

***Claim Rejections - 35 USC § 112 (written description)***

*Rejection of claims 1-6 and 12-21* (now claims 22-26 after entry of the amendment) set forth in the previous office actions is maintained. Applicant's arguments with respect to the first part of the rejections, lack of written description, set forth in the earlier office action is not persuasive. Applicants statements that the omission of some of the ingredients in the specification and working examples is due to clerical error is not persuasive because the missing elements are essential elements for the process of making the compounds of the invention. Applicant's state that one skilled in the art could consult literature as suggested by page 10, lines 6-7 of the specification. The reference cited on page 10, lines 6-7 do not adequately teach the processes needed for making the compounds of the invention. After further review of the specification, it is the Examiner's positions, that the specification is not enabling and lacks written description of the invention. One skilled in the art attempting to make applicants compounds would be misled by the omission of such essential elements, especially given the limited number of examples provided in the specification. The teachings of the specification are critical for the successful *making* of the claims (compounds) of the invention.

***Claim Rejections - 35 USC § 112 (scope of enablement)***

*Applicant's amendments to the claims overcome the rejection under 35 USC § 112 (scope of enablement) set forth in the previous office action.*

**Conclusion**

Applicant's amendments overcome part of the rejections set forth in the office action filed 03/26/2007. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claims 22-26 are free of prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nizal S. Chandrakumar whose telephone number is 571-272-6202. The examiner can normally be reached on 8.30 am – 5 pm Monday- Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached at 571-272-0867 or Primary Examiner D. Margaret Seaman can be reached at 571-272-0694. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from

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either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nizal S. Chandrakumar



D. MARGARET SEAMAN  
PRIMARY EXAMINER